

**BEFORE THE LAND USE HEARINGS EXAMINER
CLARK COUNTY, WASHINGTON**

**REGARDING THE APPLICATION FOR A
PRELIMINARY PLAT TO SUBDIVIDE
APPROXIMATELY 6.4 ACRES INTO 73
SINGLE-FAMILY ATTACHED LOTS IN THE
R1-7.5 AND R-18 ZONING DISTRICTS IN
THE UNINCORPORATED CLARK COUNTY,
WA.**

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FINAL ORDER

**FALCON'S REST PUD
PLD2004-00067, PUD2004-
00003, BLA2004-00043
SEP2004-00123, EVR2004-
00060, MZR2004-00138**

APPROVED WITH CONDITIONS

INTRODUCTION

The applicant is requesting a preliminary plat approval to subdivide approximately 6.24 acres into 73 single-family residential lots in the R1-7.5 and R-18 zoning districts using the planned unit development standards (PUD), CCC 40.520.080. The western 2.7 acres of the site are zoned R1-7.5; and was boundary-line adjusted out of Tax Lot 76 (188267-000) [see Exhibit 6, Tab Legal Lot for BLA2004-00043 review). The eastern 3.5 acres are zoned R-18.¹

The R1-7.5 Zoning District permits the development of a single-family dwelling as an outright permitted use. The code provides for a minimum density of 4.1 dwellings units and a maximum density of 5.8 dwellings units per acre (see Table 40.220.010-2, Lot Requirements).

The R-18 Residential District permits medium density residential development in the county ranging from a minimum density of 12 dwelling units per acre and a maximum density of 18 dwelling units per acre (see Table 40.220.020-2 (Lot Requirements).

A planned unit development (PUD) is permitted in the R1-7.5 and R-18 districts, per Table 40.220.010-1 (1) (l) and Table 40.220.020-1 (1) (n), respectively, subject to the provisions of CCC 40.520.080. (See Land Use Finding 5 for additional information)

Location: The intersection of NW 36th Avenue and NW 122ND Street, a portion of Tax Lot 13 (187767) and a portion of Tax Lot 76 (188267), in the SE ¼ of Section 29, Township 3 North, Range 1 East of the Willamette Meridian.

¹ A portion of Tax Lot 13 (187767) lying north of NW 122nd Street is zoned C-3 and is separated from the development site to the south.

Applicant: Braemark, LLC
P. O. Box 10624
Portland, OR 97296

Property Owner(s): Braemark, LLC Deborah Shorten
P. O. Box 10624 2835 SE Tolman St.
Portland, OR 97296 Portland, OR 97202

The Estate of Ronald Melvin John Bannan
P. O. Box 484 3805 NE 122nd Street
Wrangell, AK 99929 Vancouver, WA 98685

Comp Plan: Urban Low (UL) & Urban Medium Density Residential (UM),

Zoning: R1-7.5 & R-18

Applicable Laws: Clark County Code Chapter 40.350 (Transportation), 40.350.020 (Concurrency), 40.380 (Storm Water Drainage and Erosion Control), 15.12 (Fire Code), 40.570.080 (SEPA), 40.570.080 (C) (3) (k) (Historic & Cultural Preservation), 40.540.040 (Land Division Ordinance), 40.520.080 (Planned Unit Development), 40.220.010 (Single-Family Residential Districts, R1-7.5), 40.220.020 (Residential District, R-18), 40.610 (Impact Fees), 40.370.010 (D) (Sewer Connection), 40.370.020 (D) (Water Connection), 40.440 (Habitat Conservation Ordinance), 40.500 (Process), RCW 58.17 (State Land Division Laws)

Project Overview: The following Table 1 shows the comprehensive plan designation, zoning, and current land use on the site and on the abutting properties:

Table 1: Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use
Site	Urban Medium (UM), Community Commercial (CC) and Urban Low (UL)	R-18, R1-7.5 and C-3	The site slopes southerly and easterly forming a depression in the southeast corner. The remainder of the property is partially flat with rolling hills sloping southerly. There are evergreen trees on the property with grass and shrubs.

North	Urban Low Density Residential (UL) and Community Commercial (CC)	R1-10 and C-3	NW 122nd Street, mostly vacant commercial property with grass, a building on Tax Lot 32 (187782-000), Felida Community Park entrance, and a single-family dwelling on Tax Lot 3 (188210-000).
East	UL	R1-10	NW 36th Avenue; and Columbia Gardens, a residential housing development.
South	UL	R1-7.5	Residential home sites on fairly large lots.
West	UL	R1-7.5	Residential home sites on fairly large lots.

The property is located within the City of Vancouver's urban growth area (UGA). It is situated in an area served by Fire Protection Districts 6, Vancouver School District, Hazel Dell Traffic Impact Fees District, and Parks Improvement District 9. Clark Public Utilities provides public water and Hazel Dell Sewer District provides sewer service in the area.

HEARING AND RECORD

The Public Hearing on this matter was held on November 9, 2004 and the record was closed on November 30, 2004. A record of all testimony received into the record is included herein as Exhibit A (Parties of Record), Exhibit B (Taped Proceedings), and Exhibit C (Written Testimony). These exhibits are filed at the Clark County Department of Community Development.

The Examiner has conducted an unaccompanied site visit prior to the Hearing.

Michael Uduk, the lead County Planner on this application provided an overview of the proposal and its associated staff report. He noted that the applicant is requesting a 14% density increase, under the applicable codes. There are no issues associated with this application. Staff is recommending approval of this application, subject to the conditions of approval detailed in the staff report.

Kurt Stonex, representing the applicant, said that, rather than developing this site with two different types of housing units – single-family homes and apartments -- the applicant has chosen to seek the density increase in order to allow the site to be developed as a single-family development. He described the water, sewer and stormwater features of the site, including a stormwater treatment swale in the southwest corner. The staff report adequately addresses the PUD findings and criteria; in summary, we have provided multiple open-space tracts, a pool and community building, an extensive landscaping plan and a community garden. The traffic study finds that all affected intersections have adequate levels of service. There is one road modification in the application, for NW 36th; we have requested to maintain the existing road as it is, rather than widening it by three feet. Staff has recommended approval of this request.

Public testimony:

Mike Fraizer of 4013 NW 122nd Street, just to the west of the development, asked about the swale – did Mr. Stonex say where the water from that swale will go? Also, is there a plan to build a fence for noise abatement and privacy along the western border of the site? (See Mr. Stonex's response below).

Lyle Baxter, who lives just to the south of the project, said he feels that this permit process should be held up until a few things can be reconciled – traffic on NW 36th Avenue, for example. The County has put a left-turn lane in on NW 36th Avenue; if there is traffic heading south, and someone comes from the north, the first thing they do is swing into the bike lane, where all of the mailboxes are. You take your life in your hands getting your mail, he said, and I would like to see those mailboxes moved to the west side of the road. It's a very narrow spot. He said he, too, is concerned about the swale. Also, he said, in the pre-application report, it said there is no wildlife in the area; I protest that, because on any given day, there are 8-10 deer bedded down in my back yard. Also, with respect to the traffic on NW 122nd Street, there is another development just to the west of this one; it is currently under construction. The future traffic from that site has not been factored into the traffic report. No one seems to factor in the traffic from the moorage; there is also sportsman traffic. There have been some other infills on the north side of NW 122nd Street we need to figure out this traffic, as far as what happens on NW 36th Avenue. (See also Exhibit 20 a letter from Norma Baxter raising these issues.)

Mike Wilmington said his first concern is that, one of the things that attracted him to this community is that there are no apartment structures in it. We were just in a bloodbath over our local schools; half of us got ripped from the district, because of density. We didn't build Felida Park so it could be frontage for a bunch of apartment developments. The County and the developers don't want to spend the money to correct the road problems. We want to cram a bunch of homes in there, and our community is going to be left with this huge eyesore. There are two beautiful Craftsman-style homes, shops, in general, an upscale community – I had no idea Clark County has changed the zoning in this area in this way.

Mr. Wilmington expressed concerns about stormwater effects from the new development, particularly to the north. He reiterated his concerns about the zoning change. This is not a zoning change, the examiner replied – they are combining the existing zonings of this property, and the result will actually be less dense than if this was built at R-18. I'm just disappointed, Wilmington said.

John Whearty of 13200 NW 33rd Avenue said his major concern is the amount of building that is currently happening in this area that is not taken into account in any traffic survey. Every morning, I leave for work, turning left onto NW 36th Street I sit there and wait, and wait, and wait to turn left. To put 74 units into that mix, without a real traffic impact study, is a problem – you can't do a traffic impact study that will accurately reflect the traffic conditions that will be created by this development. Also, he said, looking at this map, my God – look at the lot sizes! The gentleman before me was correct about the impact of this development on schools. This isn't the Pearl District, and people need to look at what they're really doing here.

However, that isn't an issue that I can consider tonight, said the Examiner – my job is to enforce the existing code; also, there is a traffic study, which is based on comprehensive data and assumptions about what is being built out, and how many daily trips this number of units will generate. On the other hand, you may also have problems with the transportation standards the county has adopted, if you feel that this development, in combination with all of the other new development in the area, will detrimentally impact the existing traffic situation in the neighborhood. (See also Exhibit 21 arguing also that the development is out of character).

Todd Bradley of 4612 NW 122nd Street asked whether the plat map is available. It is in the back of the staff report, the examiner replied. First, said Bradley, I agree with Mr. Baxter about the quantity of wildlife in this area. However, not all wildlife is protected, said the Examiner. What I would like to know is, on NW 122nd Street my main concern is the safety issue, said Bradley – is there a plan for a traffic light at the intersection of NW 122nd Street and NW 36th Avenue? I'll ask the applicant or staff to respond, the Examiner replied. Also, said Bradley, would a situation such as a lot of children going to a park, rather than to school, impose a requirement for a light? There are subdivision regulations requiring that children be safe when walking to school, although I'm not aware of a regulation covering kids walking to a park, said the Examiner. OK, said Bradley; next, to the north, there is a hump on NW 36th Avenue. You'll also see that to the south – there is a drop. The traffic headed north cannot see the traffic headed south. A lot of people are having trouble with traffic coming both ways – you really can't see the traffic coming from the north. My concern is that, not only have you created a very popular new park, all of those cars will be coming into the same intersection servicing the new subdivision. Everything is going to be feeding into this area, and I guess I have a problem with people trying to turn left.

Another question I have is, is the traffic report in the staff report? The traffic study is summarized in the staff report, the Examiner replied. I just hope that, whatever decision you come to, you will weigh these safety concerns, Bradley said. The Examiner noted that adequate sight distance to the north is an issue for Bradley. Not necessarily to the north, Bradley replied – it's more obvious to the north, but there is still a roll to the south. I understand, said the Examiner. I guess I'm testifying to say that there is going to be a lot of traffic, in an area where there are a lot of kids, Bradley said. I just hope that whatever plan is developed is workable.

Ron Nickels of 12200 NW 34th Avenue said the kids have to have sidewalks to get to school; NW 119th Street has no sidewalks. There are no sidewalks in our neighborhood, so the kids are having to walk to school on the street. The applicant is required to show that the kids have a safe way to school, and will respond to that in their rebuttal, said the Examiner. There is too much density in this neighborhood, said Nickels.

Brad Coopman, who lives on NW 119th Avenue, said the site plan looks pretty scary to him. This is a pretty small piece of property, he said, and you're going to put 73 units on it? I'm opposed to this development; it is going to wreck the neighborhood as we know it.

Milana Allen of the Felida Neighborhood Association said many of her questions have already been addressed. However, there is one other question about the traffic concurrency findings on Page 8. The County has estimated 32 new a.m. peak-hour trips from this development; that is unrealistic for a development of this size. Just do the math, she said – if there are 73 units, that's at least 73 trips; if there are two people in each household, that's 146 new trips. I would like to know how they arrived at their estimate, she said. That's a valid question, said the examiner. I would also like to know what the current level of service is on NW 36th Avenue she said. Also, does this project contain two separate legal lots, or just one?

Mr. Coopman interjected that you can't even pull out onto NW 36th Avenue now; the situation will only get worse if this development is built. He asked that the record be kept open so that more of the community can weigh in.

Kevin McDade O'Neill of NW 119th Street said he is also concerned about density, as well as child safety. Also, he said, traffic is already a problem on NW 36th Avenue; an additional 73 homes will bring more traffic to NW 36th Avenue. Traffic flow on NW 36th Avenue needs to be addressed, either through a light or some other means. On the east side of the proposed plan, there are cherry trees abutting that property; will those trees be ripped out? What is the plan for that area? I'll ask staff and the applicant to reply to that, said the Examiner

Wayne Wirtkek of NW 36th Avenue, agreed with the traffic problems already cited. In the staff report, under Finding 1, it says that the development "appears" to maintain the existing level of service – it either does or it doesn't, and the staff report needs to say so. I agree, said the Examiner. Also, some lighting would help improve pedestrian safety. Also, I would like to see a landscaped wall between their property and mine, rather than just landscaping. County code doesn't require fencing between two residential developments, the examiner replied – I didn't write the code.

Staff Rebuttal:

Mr. Uduk said he will defer to the applicant's traffic engineer to address the traffic study and off-site issues. With respect to land-use issues, first, this development proposal does not constitute a re-zone – the zoning for this development already exists, and has existed since 1994. The PUD ordinance allows for this type of development, he said; this development is creating a community that is almost self-sufficient. With respect to traffic, each of the 73 lots will be assessed traffic, parks and school impact fees. Traffic safety issues that exist currently will probably continue to exist; however, the applicant bears the burden of ensuring that this development will not exacerbate the traffic situation in this neighborhood. We cannot require the applicant to provide sidewalks where they do not exist; however, the applicant will provide internal sidewalks, as well as sidewalks along NW 122nd Street and NW 36th Avenue. The applicant is going to build 73 townhomes, not apartments. The issue about a potentially illegal lot was reviewed and resolved during review process. The lot that was potentially created without planning was made a part of an existing lot.

Ali Safayi the County's Engineering representative said that, with respect to the transportation issues, he appreciates everyone's testimony. First, he said, there are some obvious typos in

the staff report, on Page 12, it should say D-12, not D-17. Under finding 9, it should say D-10. The same mistake is made in the conclusion of the traffic report section, he said. With respect to the width of NW 122nd Street, under the West Felida circulation plan, it specifies a 28-foot width within a 46-foot ROW, with no parking on one side of the street. Staff has no authority to ask for a larger section on this road. There is a condition of approval which requires the applicant to widen the throat of NW 122nd Street to 36 feet wide, where it intersects with 36th. The idea is to create a left-turn lane? The Examiner asked. I believe there is room to do that, Safayi replied. Are stop signs required at 39th and 122nd? The Examiner asked – should that be a four-way stop? I'm not sure staff has addressed that, but if you find that necessary, you can require the applicant to provide it.

With respect to a signal at 36th and 122nd, public works staff is looking into that; it appears that the best location for that might be the intersection of 36th and 119th, Mr. Safayi said. There was also a concern about sight distance along 36th; staff raised that issue during the pre-application conference. The applicant's traffic engineer has analyzed that, and certified that sight distance is adequate. The applicant is not required to remedy existing off-site problems.

With respect to stormwater impacts, Mr. Safayi continued, there are two conditions (A-7 and A-8), requiring the applicant to ensure that there are no impacts to adjacent properties as a result of stormwater from the new development. The stormwater plan will undergo detailed review during the engineering review process. We would also like to say that, if there are issues relating to sidewalks and child safety, we haven't discussed these issues with the school district, and may ask that the record be kept open for that to happen.

Applicant Rebuttal:

Jay Bockisch, the applicant's traffic engineer, said there had been a lot of questions about the traffic study. He explained that the study was performed in accordance with all applicable Clark County and national criteria and standards. He described his firm's typical approach to developing a traffic study, noting that this includes taking into account "in-process" traffic – future traffic from unoccupied developments. We also added a growth rate of 1%. We analyzed the intersections of 36th and 122nd and 119th. He noted that the a.m. and p.m. trip generation estimates were developed according to the formulas in the national standards; bear in mind that there may be retired people and others that don't generate as many trips. We found that the level of service is within the Clark County standards at all of the intersections we studied, he said; that includes the intersection sight distance issue. The accident data shows very few accidents along 36th in this area. In response to a question, Mr. Stonex said he has not been in touch with the school district; he asked that the record be kept open to allow the child safety issue to be resolved.

Mr. Stonex put up an elevation showing what the proposed townhomes will look like, noting that this will be a high-quality development, which will include 10-foot landscaped buffers along the north and east sides of the site.(Exhibit 22). With respect to fencing, the applicant is proposing to build a six-foot good neighbor fence along the south and east property lines. With respect to the existing cherry trees, if they're near the property line, they will be retained. With respect to drainage, there will be a drainage swale in the southwest corner; on the rest of the

site, all of the stormwater will be collected and piped to the west, not to the north. Drainage will not increase from this site, and will likely decrease.

With respect to zoning, the R-18 zoning on this site has been in place for eight years – it is not a new zone. How many units could you do if this wasn't a PUD, under R-18? the examiner asked. About 90 apartment units, plus three to four R1-7.5 units per acre, Stonex replied. Finally, with respect to lighting, we will be providing street lights throughout the development, and possibly on 122nd. The PUD tells us where to put the lights.

The Examiner indicated that he will hold the record open for one week to allow the applicant to submit evidence that the children will be able to get to school safely. The staff and the public will have one additional week to provide written comments on what the applicant has provided. I will then allow another seven days for applicant's response. The examiner said he will leave the record on this case open for 21 days. In response to a question from Mr. Safayi, the Examiner said he would like staff to investigate the need for a four-way stop, as well as the timing of a potential signal at 119th and 36th. He instructed staff to complete that investigation within seven days and Mr. Safayi agreed. Again, the public and staff will have seven days to respond, and then the applicant will have seven days to respond to their comments.

The Examiner replied to an additional question from Mr. Baxter regarding the existing zoning of this site, and how the PUD designation allows a developer to combine the densities of different zoning designations, such as R1-7.5 and R-18. Another member of the public asked the traffic engineer to talk about the present and future levels of service at the intersections of 119th and 122nd and 39th. Again, at 122nd, we had Level-C service; we meet concurrency standards at these intersections, said Bockisch.

Open Record Period:

Exhibit 23 - A November 15, 2004 Memo from Ali Safayi

In this memo Mr. Safayi corrects omission of a **Driveway Spacing** findings and clarified **Parking** findings. (See Transportation Finding 12)

Exhibit 24 - A November 16, 2004 Memo from Vancouver Public Schools - indicating that the Felida Elementary is over capacity but that Jefferson Middle and Skyview High School have capacity. The district indicates that it will make accommodations or adjustments to accommodate the increased student enrollment. The school provides bus transportation for students living more than a mile from school and for those living less than a mile if there are unsafe walking conditions. At the present time students at this location will be bussed to all three schools from a stop(s) at NW 36th and NW 122nd. (The Examiner notes that sidewalks are available from the development to that corner)

Exhibit 25 -A November 17 Email from Paul Nevue - speaking on behalf of safety of children.

The added traffic on 122nd and the intersections at the entrance to Felida Park and 36th

Avenue will greatly affect safety in the area. He suggested the following actions to keep our neighborhood safe:

1. Addition of a sidewalk on the west side of 36th Avenue to complete the entire sidewalk corridor on 36th Avenue.
2. Complete sidewalks from 36th Avenue to the west edge of the property on both sides of 122nd Street.
3. Have developer include a speed bump inside the property at the property entrance to encourage slow ingress and egress of traffic in and out of the new development.
4. Place any entrance to the property in an offset position from the entrance to the park. This will ensure that no traffic travels directly from the development into the Felida Park entrance.
5. Dedicated crosswalk zones and signage at the park entrance.
6. Bike trails included on 122nd Street allowing for bike traffic to enter Felida Park.

I would also encourage you to include other traffic safety measures that will give the children in the area a safe trip from home to the park as well as from home to the school area on 119th Street. He also took issue with two staff findings:

1. The applicant is proposing single-family housing on small lots, similar in use to those already developed in the area. And Mr. Nevue was unaware of any similar duplex, triplex and quad developments in the area.
2. Staff has raised expressed concerns that additional trips generated by this development may exacerbate traffic safety in this location. However, the Applicant's traffic engineer has certified that the corner sight distance at this intersection is adequate and no significant safety concerns due to the substandard intersection spacing in this location has been identified.

Exhibit 26 - A November 15, 2004 response from County's Concurrency Staff:

NW 119th Street/NW 36th Avenue

For unsignalized intersections, the concurrency standard is LOS E (CCC40.350.020 G(1)d) is acceptable as long as signal warrants are not met. The traffic study reports that at build-out (with in process developments and background growth) a LOS E for the intersection and it does not meet warrants for a signal. The applicant should not be required to provide mitigation. County staff is actively monitoring this intersection. It is close to meeting some of the warrants for installing a signal and will likely be signalized in the future.

NW 122nd Street/NW 36th Avenue

Concurrency levels of service (LOS) standards are not applicable to local accesses and intersections that are not regionally significant; however, the LOS analysis provides information on the potential congestion and safety problems that may occur at the intersections onto the arterial and collector network. The intersection appears to maintain acceptable LOS. Staff uses the term "appears" for two reasons. First, the applicant's traffic engineer makes the analysis with first hand information, while staff only reviews the findings of the engineer rather

than originating our own analysis and collecting new data. Second, the analysis estimates a future condition that cannot be known with absolute certainty. The LOS includes existing traffic counts, adds a growth rate, and traffic from approved but not yet built (in process) developments. Staff concurs with the analysis reported in the study that the future average delay for the minor approach during the peak hour of travel is acceptable, a LOS C.

The subject intersection does not meet warrants for signal installation. In addition, the County is unlikely to signalize intersections that are not regionally significant (intersections of designated arterials and collectors). The future signal at NW 119th Street/NW 36th Avenue could provide additional gaps in the traffic that would then provide additional opportunities for vehicle to enter and exit NW 122nd Street.

Trip Generation

The Trip Generation, 7th Edition, by Institute of Transportation Engineers is used to estimate the amount of traffic the proposed development generates. The information in the manual represents data collected at multiple locations for a specific land use type. Townhouses are estimated to generate on average about half the traffic of a single family home. This may be, in part, the type of residents that might be attracted to this type of dwelling such as retirees, single persons, couples without children, and single parents with older children.

Stop Signs

Stop signs at the proposed development's access point with NW 122nd will be reviewed as part of the signing and striping plan submittal. Staff will review the need for traffic control at that point in time. In the absence of the complete set of plans, we are unable to determine which or if all the legs of the intersection require traffic control. Note that installation of traffic control devices is based on traffic engineering criteria and standards and is not considered part of the land use permitting process.

Exhibit 27 - Two memo - First from Olson Engineering and two from H. Lee Associates, the applicant's traffic consultant.

Responding to Mr. Nevue wrote concerning issues related to traffic and roadway improvements that he would like to see in the vicinity of the Falcon's Rest PUD site, Camille Goodin writes:

1. *Addition of a sidewalk on the west side of 36th Avenue to complete the entire sidewalk corridor on 36th Avenue.*

A sidewalk currently exists on the west side of 36th Avenue, adjacent to the development property. No further sidewalk construction on the west side of 36th Avenue adjacent to the Falcon's Rest property is required.

2. *Complete sidewalks from 36th Avenue to the west edge of the property on both sides of 122nd Street.*

It is the responsibility of the applicant to provide half-width roadway improvements on the south side of 122nd Street only. Sidewalks on the north side of 122nd Street shall be constructed as the properties to the north develop. The proposed sidewalks along 122nd Street for the Falcon's Rest PUD comply with current Clark County Code requirements.

6. *Bike trails included on the 122nd Street allowing for bike traffic to enter Felida Park.*

122nd Street is classified by Clark County Road Standards as an Urban Local Residential Access Road, Drawing 14. The specifications for an Urban Local Residential Access Road do not include a bike trail therefore no bike trail was required or proposed. The current proposal for 122nd complies with Clark County Code requirements.

The additional improvements Mr. Nevue's requested are not warranted under Clark County Code. The majority of the requests will be implemented as the surrounding properties develop.

The memo from H. Lee Associates addresses the remainder of Mr. Nevue's suggestions:

3. *Have developer include a speed bump inside the property at the property entrance to encourage slow ingress and egress of traffic in and out of the new development*

A speed bump inside the project site at the entrance is not needed to encourage slow ingress and egress of traffic in and out the Falcons Rest development. Vehicles turning into the site would naturally slow down to make the turn and would have to stop for vehicles traveling in the opposite direction. Vehicles exiting the site will be required to stop at the project site access intersection with NW 122nd Street. Since vehicles entering and exiting the new development would naturally slow down and/or stop, a speed bump is not needed at the entrance to the project.

4. *Place any entrance to the property in an offset position from the entrance to the park. This will ensure that no traffic travels directly from the development into the Felida Park entrance.*

Creating two offset intersections for the park and the proposed development goes against sound traffic engineering principles that encourage aligning adjacent roadways whenever possible. Creating offset intersections would not stop travel between the park and Falcons Rest development but would create additional turning movements and conflicts along NW 122nd Street between the two offset entrances. Additionally, offsetting the two intersections would not meet Clark County's standards.

5. *Dedicated crosswalk zones and signage at the park entrance.*

Crosswalks and signing for the Felida Park are the responsibility of Clark County. If the residents would like crosswalks and signing, they should work with Clark County to see that these elements are provided along NW 122nd Street.

FINDINGS

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings. The following issues were either raised by the applicant, addressed by staff in its report, or by agency comments on the application, and the Examiner adopts the following findings with regard to each:

LAND USE - Zoning:

Planned Unit Development (CCC 40.520.080)

Approval Criteria

CCC 40.520.080 establishes the standards and general requirements for a planned unit development (PUD) review, and stipulates that 5 specific findings must be made prior to a PUD approval in the county. The proposed PUD can comply with the applicable standards and requirements per CCC 40.520.080 (E), and the approval criteria per CCC 40.520.080 (F) because:

Approval criterion 1

The site is adequate in size and shape to accommodate the proposed use and all yards, spaces, walls and fences, parking, loading, landscaping, and other features required to ensure that the proposed use is compatible with the neighborhood land uses

Finding 1

The development site comprises two tax lots of record totaling approximately 6.2 acres. The easterly parcel is approximately 3.5 acres zoned R-18; and the westerly parcel is approximately 2.7 acres, which has been boundary line adjusted from Tax Lot 76 (188267-000), and zoned R1-7.5. (See Table 2, p. 7 for additional information) The preliminary landscaping Plan (Exhibit 5, Sheet 3 of 4) and the additional perimeter landscaping proposed, would, when implemented, provide adequate screening to support this development.

We note that the applicant is providing open spaces (Tracts "B" and "C"), paved pedestrian paths connecting the development to NW 36th Avenue and NW 122nd Street (Tracts "A" and "B"), a community Garden (Tract "D") and a Club House and Pool (Tract "E"). These facilities, when implemented, will draw the residents together and create a community ambiance in Falcon's Rest. The open spaces (Tracts "A", "B", "C", "D", and "E") shall be owned and maintained by the home owners association of Falcon's Rest Subdivision PUD. The applicant shall establish a covenant, conditions, and restrictions (CC & R's) stating this. This is precisely the kind of trade of for producing a development combining two zoning areas that the PUD scheme adopted by the County wished to encourage. (See condition of approval A-1)

Finding 2

The preliminary plat (Exhibit 5, Sheet 2 of 4) and the narrative (Exhibit 6, Narrative tab) show that the applicant is proposing the following lot and set back dimensions for this development:

- Minimum lot area --- 1,800 square feet
- Minimum lot width --- 25 feet
- Minimum lot depth --- 50 feet
- Front yard setback for the house --- 10 feet
- Front yard set back for the garage --- 18 feet
- Street side yard --- 10 feet
- Interior side yard --- zero to 5 feet
- Rear yard set back --- 5 feet
- Maximum building height --- 35 feet. (See condition of approval D-1)

To ensure traffic and pedestrian safety, the street side yard for Lot 8, Lot 9, Lot 57 and Lot 58 should be 10 feet and the interior side yard setback for all lots should be zero to 8 feet, or as may be approved by the Fire Marshal or a designee, consistent with the International Building and Fire Codes as adopted by Clark County. (See condition of approval D-2)

Finding 3

The applicant shall provide perimeter landscaping plan (see Exhibit 5, Sheet 3 of 4) along the southern boundary of Lot 25, Lot 26, Lot 27, Lot 28 and Lot 29, along the western boundary, and along the eastern section of the of the site bordering Tax Lot 76 (188267) a to further the comprehensive plan policy to ensure aesthetics and compatible land uses in the neighborhood. (See conditions of approval A-2 and C-1)

Approval criterion 2

The site relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use. Adequate public utilities are available to serve the proposal.

Finding 4

The development will not have any potential adverse impacts in the neighborhood because the applicant has proposed public street connections. The applicant proposes to construct NW 39th Avenue to connect NW 122nd Street. The applicant also proposes to construct NW 121st Circle that terminates in a cul-de-sac easterly, and NW 40th Court that terminates in a half-radius cul-de-sac to the south. These streets, when developed, would provide adequate traffic cross circulation in the area. This finding does not require a condition of approval.

Approval criterion 3

The proposed use will have no significant adverse effect on abutting property or permitted use thereof.

Finding 5

The spirit of this criterion was the subject of heated public testimony (See Hearing and Record above). While most of the concerns related to traffic impacts and safety, a number of concerns also addressed compatibility, larger community impacts and some concern about drainage. Specific code related impacts are addressed in relevant code findings; however, short of displeasure of having townhouses in the neighborhood, I find compatibility issues subjective and speculative. I agree with the staff finds that the proposed use will have no significant adverse effect on abutting property or permitted uses in the area. The applicant is proposing single-family housing on small lots. Mr. Nevue argues that they are not similar in use to those already developed in the area and he is correct that the townhouse concept is not visible in the immediate vicinity, but the zoning allows it outright on the eastern portion of the development and they are still small single home ownership lots. Extending the concept to the western portion is compensate by landscaping and amenities already referenced in the above findings. Even though the abutting property to the north is zoned community commercial (C-3), the applicant is proposing an appropriate L3 landscaping scheme within a 10 foot buffer width per Table 40.320.010-1 (Landscaping Standards) to screen this development from the commercial site.

The proposed density complies with the density guidelines in Table 40.220.010-2 for the western section of the site zoned R1-7.5; and Table 40.220.020-2 for the eastern section zoned R-18. Table 2 shows that of the approximately 6.24 acres, approximately 1.85 acres will be dedicated as right-of-way for public road improvement. The table also shows that the net developable land is approximately 4.85 acres, which could be divided into a maximum of 64 lots or a minimum of 43 lots; but the applicant is proposing 73 lots in this PUD.²

Table 2: Habitat/Open Space, ROW, and Density

Zone	Gross acres	ROW in acres	Net acres	Gross density	Net density	Proposed density
R1-7.5	2.7	.85	1.85	15 - 11	10 - 7	29
R-18	3.5	.50	3.0	63 - 42	54 - 36	44
Total	6.24	1.35	4.85	78 - 53	64 - 43	73

The proposed density exceeds by 9 lots (or 14 percent), the maximum density that can be approved on this project site, based upon the net developable acreage. The applicant is providing some unique features that create centripetal spaces in this development. These features include the paved meandering pedestrian trails, open spaces, a community garden, a club house and pool, which warrant a 14 percent increase in density per CCC 40.520.080 (D) (2). The applicant has provided a building envelope on each lot to ensure that the proposed houses would foster and enhance neighborhood compatibility (see Exhibit 5, Sheets 2 of 4 and 3 of 4).

² Density is based on the number of lots per the gross acreage minus land dedicated for public right-of-way.

The applicant is providing lots of various sizes to ensure the construction of a variety of housing stocks and providing housing choices to consumers in a range of income brackets, thereby furthering the policies of the comprehensive plan regarding the provision of affordable housing in Clark County. This finding does not require a condition of approval. The County Code allows for this kind of trade off, in fact it provides density incentives for a better designed more livable development.

Approval criterion 4

The establishment, maintenance, and/or conduct of the use for which the development plan review is sought will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, or welfare of persons residing or working in the neighborhood of such use and will not under the circumstances of the particular case, be detrimental to the public welfare, injurious to property or improvements in the neighborhood; nor shall the use be inconsistent with the character of the neighborhood or contrary to its orderly development.

Finding 6

The applicant will make the necessary improvements needed to connect the proposed development to public water and sewer systems to mitigate any potential public health impacts. The utility reviews from Clark Public Utilities and Hazel Dell Sewer District indicate that adequate capacities exist in the area to connect this development to public water and sewer services. The open space will provide some recreation opportunities in the area, and mitigate potential negative impacts to the public and persons residing or working in the neighborhood. Children will have a safe walking environment to bus stops. There is no evidence that the development will be injurious to anyone in the neighborhood. This finding does not require a condition of approval.

Approval criterion 5

The applicant has proposed unique or innovative design concepts to further specific policies of the comprehensive plan.

Finding 7

The development can comply with the comprehensive plan policy regarding recreation opportunities in the county. The design of this plat is in some ways innovative. First, the applicant is providing a community club house and pool with this development. Secondly, the applicant is providing a community garden, a feature that will attract community gardeners to the development. Thirdly, the applicant is providing open spaces with short trails in this development. These features, will, when implemented, provide opportunities for both passive and active recreation to the residents in the area.

CRITICAL AREAS:

Clark County's GIS Mapping System does not indicate any sensitive areas on this site.

TRANSPORTATION CONCURRENCY:

The applicant's traffic study has estimated the weekday AM peak hour trip generation at 32 new trips, while the PM peak hour trip generation is estimated at 38 trips. The following

paragraphs document two transportation issues for the proposed development.

Issue #1: Concurrency

Contrary to some public testimony, the applicant submitted a traffic study for this proposal in accordance with CCC 40.350.020B and is required to meet the standards established in CCC 41.350.020G for corridors and intersections of regional significance. The County's TraffixTM model includes the intersections of regional significance in the area and the County's model was used to evaluate concurrency compliance. Trip assumptions were questions by the neighbors who projected two cars and two peak hour trips per unit. As Exhibit 26 explained, the Trip Generation, 7th Edition, by Institute of Transportation Engineers is used to estimate the amount of traffic the proposed development generates. The information in the manual represents data collected at multiple locations for a specific land use type. Townhouses are estimated to generate on average about half the traffic of a single family home. This may be, in part, the type of residents that might be attracted to this type of dwelling such as retirees, single persons, couples without children, and single parents with older children.

Site Access

Finding 1:

Level of Service (LOS) standards are not applicable to accesses that are not regionally significant; however, the LOS analysis provides information on the potential congestion and safety problems that may occur at the site access to the arterial and collector network (NW 122nd Street). The access "appears" to maintain acceptable LOS. As Ms. Oylear explained in Exhibit 26 above, the LOS analysis provides information on the potential congestion and safety problems that may occur at the intersections onto the arterial and collector network: "The intersection appears to maintain acceptable LOS. Staff uses the term "appears" for two reasons. First, the applicant's traffic engineer makes the analysis with first hand information, while staff only reviews the findings of the engineer rather than originating our own analysis and collecting new data. Second, the analysis estimates a future condition that cannot be known with absolute certainty. The LOS includes existing traffic counts, adds a growth rate, and traffic from approved but not yet built (in process) developments. Staff concurs with the analysis reported in the study that the future average delay for the minor approach during the peak hour of travel is acceptable, a LOS C."

In response to the neighborhood concerns, the subject intersection does not meet warrants for signal installation. In addition, the County is unlikely to signalize intersections that are not regionally significant (intersections of designated arterials and collectors). The future signal at NW 119th Street/NW 36th Avenue could provide additional gaps in the traffic that would then provide additional opportunities for vehicle to enter and exit NW 122nd Street

Operating LOS on Corridors

Finding 2:

The proposed development was subject to concurrency modeling. The modeling results indicate that the operating levels comply with travel speed and delay standards. The applicant should reimburse the County for costs incurred in running the concurrency model. (See condition A-3)

Concurrency Compliance

The proposed development complies with the Concurrency Ordinance CCC 40.350.020.

Issue 2: Safety

Where applicable, a traffic study shall address the following safety issues:

- Traffic signal warrant analysis,
- Turn lane warrant analysis,
- Accident analysis, and
- Any other issues associated with highway safety.

Mitigation for off-site safety deficiencies may only be a condition of approval on development in accordance with CCC 40.350.030(B)(6) The code states that “nothing in this section shall be construed to preclude denial of a proposed development where off-site road conditions are inadequate to provide a minimum level of service as specified in Section 40.350.020 or a significant traffic or safety hazard would be caused or materially aggravated by the proposed development; provided, that the applicant may voluntarily agree to mitigate such direct impacts in accordance with the provisions of RCW 82.02.020.”

Traffic Signal Warrants

Finding 3:

Signal warrants are not met at any of the subject intersections analyzed in the applicant's traffic study. In Exhibit 26, Ms. Oylear looked at NW 119th Street/NW 36th Avenue and concluded that for unsignalized intersections, the concurrency standard is LOS E (CCC40.350.020 G(1)d) is acceptable as long as signal warrants are not met. The traffic study reports that at build-out (with in process developments and background growth) a LOS E for the intersection and it does not meet warrants for a signal. The applicant should not be required to provide mitigation. County staff is actively monitoring this intersection. It is close to meeting some of the warrants for installing a signal and will likely be signalized in the future.

Turn Lane Warrants

Finding 4:

Turn lane warrants are evaluated at un-signalized intersections to determine if a separate left or right turn lane is needed on the uncontrolled roadway. The applicant's traffic study analyzed the roadways in the local vicinity of the site to determine if turn lane warrants are met. Turn lane warrants were not met at any of the un-signalized intersections analyzed in the applicant's traffic study; therefore, mitigation is not required.

Historical Accident Situation

Finding 5:

The applicant's traffic study analyzed the accident history at the regionally significant intersections; however, all of the historical accident rates at these intersections are below 1.0 accident per million entering vehicles. Therefore, mitigation by the applicant is not required.

Traffic Controls during Construction

Finding 6:

During site development activities, the public transportation system (roadways, sidewalks, bicycle lanes, etc.) may be temporarily impacted. In order to minimize these impacts and coordinate work occurring in the public right-of-way, the applicant will need to prepare and have approved a Traffic Control Plan. (See condition B-2)

The applicant shall maintain all existing signs within the public right of way within the limit of the development's construction until the public roads have been accepted by the County. The developer shall install and maintain temporary signs where the development's signing and striping plan shows new or modified warning or regulatory signs. New or modified temporary signing shall be installed when any connection is made to the public road network. The developer shall remove the temporary signs immediately after the County installs the permanent signing and striping.

Neighborhood Raised Safety Suggestions

Finding 7

The applicants Exhibit 27 correctly responds to various issues and suggestions - to summarize:

- A sidewalk currently exists on the west side of 36th Avenue, adjacent to the development property.
- It is the responsibility of the applicant to provide half-width roadway improvements on the south side of 122nd Street only. Sidewalks on the north side of 122nd Street shall be constructed as the properties to the north develop.
- 122nd Street is classified by Clark County Road Standards as an Urban Local Residential Access Road, Drawing 14. The specifications for an Urban Local Residential Access Road do not include a bike trail therefore no bike trail was required or proposed.
- A speed bump inside the project site at the entrance is not needed to encourage slow ingress and egress of traffic in and out the Falcons Rest development. Vehicles turning into the site would naturally slow down to make the turn and would have to stop for vehicles traveling in the opposite direction. Vehicles exiting the site will be required to stop at the project site access intersection with NW 122nd Street. Since vehicles entering and exiting the new development would naturally slow down and/or stop, a speed bump is not needed at the entrance to the project.
- Creating two offset intersections for the park and the proposed development goes against sound traffic engineering principles that encourage aligning adjacent roadways whenever possible. Creating offset intersections would not stop travel between the park and Falcons Rest development but would create additional turning movements and conflicts along NW 122nd Street between the two offset entrances. Additionally, offsetting the two intersections would not meet Clark County's standards.

- Crosswalks and signing for the Felida Park are the responsibility of Clark County. If the residents would like crosswalks and signing, they should work with Clark County to see that these elements are provided along NW 122nd Street.

TRANSPORTATION:

Pedestrian/Bicycle Circulation

Finding 1

Pedestrian circulation facilities in compliance with the Americans with Disabilities Act are required in accordance with the provisions of Section CCC 40.350.010. The proposed development plans show 6-foot wide existing sidewalks along the frontages on NW 36th Avenue. The proposed improvements include construction of sidewalk along the frontage on NW 122nd Street and the onsite road extensions. The site plan shows walk paths connecting the sidewalks along onsite roads with the sidewalks along NW 36th Avenue and NW 122nd Street. Existing improvements along the frontage on NW 36th Avenue accommodate bike lanes. Bike lanes are not required for urban access roads so contrary to some neighbors suggestions the applicant is not required to install them on NW 122nd Street. Based on this information, the proposed pedestrian/bicycle circulation complies with the provisions of Section CCC 40.350.010.

Circulation Plan

Finding 2

In accordance with Section CCC 40.350.030(B) (2), the purpose of the circulation plan is to ensure access to the proposed development and to provide adequate cross-circulation in a manner, which allows subsequent developments to meet the cross-circulation standards.

NW 36th Avenue, abutting the development to the east, and NW 122nd Street abutting the property on the north are the primary north-south and east-west circulator roads in the area. The proposed onsite road extensions through the site and connectivity with the existing roadway system in vicinity of the proposed development provide adequate cross-circulation in the area. This project complies with the circulation plan; therefore, the requirements of circulation plan in compliance with Section CCC 40.350.030(B) (2) are satisfied.

Roads

Finding 3

NW 36th Avenue is classified as a 2-lane principal arterial road with center-turn lane and bike lanes (Pr-2cb). The minimum half-width right-of-way dedication and frontage improvements along this road in accordance with CCC Table 40.350.030-2 and Standard Details Manual, Drawing #5A, include:

- A minimum half-width right-of-way of 40 feet
- A minimum half-width roadway of 23 feet
- Curb/gutter and a minimum detached sidewalk width of 6 feet
- Landscaping per Section 'G' of Standard Details Manual

The Applicant proposes to dedicate an additional 10-foot right-of-way. The existing improvements consisting of partial-width roadway of 20 feet and curb-tight sidewalk do not comply with the provisions of CCC 40.350. The Applicant has requested approval of road modifications to retain the existing curb-tight sidewalk and to wave the requirement for additional pavement widening along the frontage on NW 36th Avenue. (See Condition A-4; and Transportation Finding 11)

Finding 4

NW 122nd Street is shown on the West Felida Circulation Plan. This road is required to have a 28-foot wide curb-to-curb pavement with parking on one side only. At a minimum, dedication and improvements along the frontage of this road shall be consistent with "Urban Local Residential Access" road standards. Some neighbors expressed concern over provision of sidewalks on the northern half of NW 122nd; however, that will be the responsibility of the developers on the north side. The minimum half-width right-of-way dedication and frontage improvements along this road in accordance with CCC Table 40.350.030-4 and Standard Details Manual, Drawing #14, include:

- A minimum half-width right-of-way of 23 feet
- A minimum half-width roadway of 14 feet
- Curb/gutter location
- Minimum sidewalk width of 5 feet (see Condition A-5).

Finding 5

NW 39th Avenue is classified as a "Local Residential Access" road. The right-of-way dedications and frontage improvements for this road in accordance with CCC Table 40.350.030-4 and the Standard Details Manual, Drawing #14 include:

- A minimum width right-of-way of 46 feet
- A minimum width roadway of 28 feet
- Curb/gutter and a minimum sidewalk width of 5 feet

Finding 6

NW 121st Circle is classified as a "Local Residential Access" road. The right-of-way dedications and frontage improvements for this road in accordance with CCC Table 40.350.030-4 and the Standard Details Manual, Drawing #14 include:

- A minimum width right-of-way of 46 feet
- A minimum width roadway of 28 feet
- Curb/gutter and a minimum sidewalk width of 5 feet
- The proposed cul-de-sac at the easterly terminus shall be constructed with a minimum pavement of 35-foot radius, rolled curb, and 5-foot thickened sidewalk within a minimum of 40-foot radius right-of-way.

Finding 7

NW 40th Court is classified as a "Local Residential Access" road. The right-of-way

dedications and frontage improvements for this road shall be in accordance with CCC Table 40.350.030-4 and the Standard Details Manual, Drawing #14. The project proposes to improve the northern portion of this road within a right-of-way width of 46 feet with paved roadway width of 28 feet, curb/gutter, and a minimum sidewalk width of 5 feet on both sides. The southern portion of the site will be improved within a 30-foot partial-width right-of-way with a partial width roadway of 20 feet and sidewalk on the west side. The road terminates in a non-standard cul-de-sac. However, staff finds that the proposed turnaround adequately provides for emergency vehicle turnaround until such time when the improvements for this road are completed by the future development to the southeast of the road.

Finding 8

The project proposes an "Urban Infill A" road to serve lots 14, 15, 16, and 18. The proposed easement and improvements for this road complies with the Standard Details Manual, Drawing #17. (See Plat Note D-12)

Access Management

Finding 9

In compliance with section CCC 40.350.030(B) (4) (d), direct driveway access onto NE 36th Avenue will be prohibited since access onto the local access roads can be provided. (See Plat Note D-12)

Intersection Design

Finding 10

The intersections shall be designed and constructed in accordance with provisions of Section CCC 40.350.030(B) (7) and the requirements set forth in CCC Table 40.350.030-4. In accordance with CCC 40.350.030(B) (4) (d), the minimum full paved-width of NW 122nd Street shall be 36 feet at the intersection with NW 36th Avenue and may taper back as approved. The project shall dedicate and construct partial-width road to accommodate a future 36-foot full-width pavement for NW 122nd Street at its intersection with NW 36th Avenue. The curb-return radii of 35 feet and ROW chord of 25 feet for intersection of NW 36th Avenue and NW 122nd Street will be required. (See Condition A-6)

NW 36th Avenue is a principal arterial road. In compliance with CCC Table 40.350.030-2, minimum full access intersection spacing along this road shall not be less than 600 feet. The existing intersections to the north and south of the proposed intersection of NE 122nd Street / NE 36th Avenue do not meeting the intersection spacing standards. Although the Applicant has no control over the existing condition, staff has raised expressed concerns that additional trips generated by this development may exacerbate traffic safety in this location. However, the Applicant's traffic engineer has certified that the corner sight distance at this intersection is adequate and no significant safety concerns due to the substandard intersection spacing in this location has been identified. There was public testimony expressing sight distance concern, but no additional evidence was introduced during the open record period. The applicant's picture tend to show that sight distance concerns care met.

The full access intersection spacing along arterial roads in compliance with CCC Table

40.350.030-2 shall be 500 feet. The separation between the existing intersections of NW 36th Avenue with the easterly leg and westerly leg of NW 122nd does not comply with intersection spacing standards. Although the substandard spacing between these intersections is an existing condition, staff is concerned that additional trips generated by this development may exacerbate traffic safety in this location.

Road Modification

Finding 11

Approval Criteria - If a development cannot comply with the Transportation Standards, modifications may be granted in accordance with the procedures and conditions set out in CCC 12.05A.660(1)(a). The request shall meet one (or more) of the following four specific criteria:

- a. Topography, right-of-way, existing construction or physical conditions, or other geographic conditions impose an unusual hardship on the Applicant, and an equivalent alternative, which can accomplish the same design purpose, is available.*
- b. A minor change to a specification or standard is required to address a specific design or construction problem, which, if not enacted, will result in an unusual hardship.*
- c. An alternative design is proposed which will provide a plan equal to or superior to these standards.*
- d. Application of the standards of the Transportation Standards to the development would be grossly disproportional to the impacts created.*

Modification Requests

A road modification application has been submitted to request approval of the following modifications:

- Approval for retaining the existing attached sidewalk and improvements along NE 36th Avenue – The narrative submitted with the road modification application indicates that the attached sidewalk can be found on both the east and west sides of the road as well to the north and south of the subject property. The improvements have been recently constructed. It is a hardship to the developer to demolish a newer sidewalk and construct a detached sidewalk in its place. The Applicant believes that the request meets the approval criteria described in Section CCC 40.550.010(A) (1) (a) and (b).
- Approval for the existing substandard paved width along NE 36th Avenue – The Applicant indicates that the existing road is consistent with those to the north and south of the site and widening the road would make it inconsistent with the current configuration. Widening the road by a mere three feet would result in a hardship. The Applicant believes that the request meets the approval criteria described in Section CCC 40.550.010(A) (1) (a) and (b).

Staff's Evaluation

The county Arterial Atlas requires detached and meandering sidewalk along the arterial roadways. However, the county has completed the improvements consisting of a curb-tight sidewalk and 20-foot half-width paved roadway along NW 36th Avenue. Reconstruction of

this segment of sidewalk located in a detached and meandering manner would be incompatible with the existing improvements. The relocation of the existing sidewalk may require relocation of the existing utilities. Staff concurs with the Applicant that there are no benefits in widening the roadway for additional three (3) feet and reconstruct a detached sidewalk along the property frontage. Therefore, staff concurs with the Applicant that the requests to retain the existing curb-tight sidewalk and the existing pavement width along NW 36th Avenue meet the approval criteria described in Section CCC 40.550.010(A)(1)(a) and (b).

Examiner's decision

Based upon the above findings and the approval criteria, the Examiner approves of the existing attached sidewalk and existing roadway improvements along NW 36th Avenue.

Findings 12

Plat Note D-13 states: "All residential driveway approaches entering public roads are required to comply with CCC 40.350." Staff finds that the proposed lot layout will not allow lots 8, 9, 57, 58, 72, and 73 to meet the standards described as follows:

Section CCC 40.350.030 (B) (4) (1) (b) of Transportation Standards states: "*Corner lot driveways shall be a minimum of fifty (50) feet from the intersecting property lines or in the case where this is impractical, the driveway may be located five (5) feet from the property line away from the intersection or as a joint use driveway at this property line. Where a residential corner lot is located at the intersection of a non-arterial street with an arterial street, the corner clearance requirements of Section 40.350.030(B) (4) (c) (2) (f) shall apply to the non-arterial street.*"

Furthermore, Section 40.350.030(B8) (4) (c) (2) (f) States: "*To provide adequate corner clearance, the tangent curb length between the nearest edge of a driveway on an intersecting side street and a collector roadway, or a driveway on a collector roadway and an intersection with a cross street shall be fifty (50) feet. Where the intersection is signalized or is planned for signalization, driveways shall be limited to right-turn movements if located within one hundred twenty-five (125) feet on a collector.*"

However, the staff's proposed Plat Note D-13 requires compliance with the driveway spacing standards. In this particular case where narrow lots are proposed, the Examiner may find that a specific condition, which requires the applicant to reconfigure the site plan to ensure that driveways meet the standards, is warranted. Therefore the applicant will provide shared access to the corner lots via driveways located in a manner, which the minimum driveway spacing standards can be met. (See Condition of Approval A-7)

Conclusions (Transportation)

Based upon the development site characteristics, the proposed transportation plan, the requirements of the County's transportation ordinance, and the findings above, the proposed preliminary transportation plan subject to Conditions A-4 through A-7, and Plat Note D-12 and D-13 requirements of the county transportation ordinance.

STORMWATER and Erosion Control:

Approval Criteria

Finding 1

Stormwater and Erosion Control Ordinance (CCC 40.380) apply to development activities that result in 2,000 square feet or more of new impervious area within the urban area and the platting of single-family residential subdivisions in an urban area. This project will create more than 2000 square feet of new impervious surface and involves platting of single-family residential subdivision. Therefore, this development shall comply with the Stormwater and Erosion Control Ordinance (CCC 40.380).

In accordance with CCC 40.380.040(C)(5), stormwater can be discharged directly into Lake River without quantity control, if the runoff is conveyed through a pipe or other approved discharge structure.

The erosion control ordinance is intended to minimize the potential for erosion and a plan is required for all projects meeting the applicability criteria listed in CCC 40.380.050. This project is subject to the erosion control ordinance.

Stormwater Proposal

Finding 2

The project proposes to collect and route runoff from the site to Lake River via an existing storm pipe in NW 122nd Street without detention. The project proposes to achieve the required stormwater water quality control by utilizing an underground filter system (Stormwater Management StormFilter™) and a biofiltration swale before releasing the runoff into the pipe system that discharges to Lake River. The proposed water quality facilities are accepted for standard treatment by the county stormwater ordinance. The report indicates that where necessary, level spreaders will be utilized to eliminate the concentration of stormwater onto neighboring properties. The facilities will be dedicated to the county for public maintenance.

Site Conditions and Stormwater Issues

Finding 3

Section CCC 40.380.040(C)(5) of the ordinance exempts quantity control, provided, runoff from the development site directly enters River Lake through a pipe, all runoff is treated per Section CCC 40.380.040(B), and a discharge structure is designed to avoid erosion during all storms up to the 100 year storm.

The majority of the site has slopes of 0% to 5% and contains field grass, shrubs, trees, graveled area, and an outbuilding. The project proposes 1.71 acres of roof area and 1.60 acres of impervious area due to paved surfaces, sidewalks, and driveways.

The 1972 soil survey of Clark County published by USDA, SCS shows the site to be underlain by Hillsboro loam (HoB & HoB) classified by AASHTO as soils with the designation of A-4 soils. These soils are designated as hydrologic group "B". In accordance with the provisions of CCC13.29.310(C) (1), A-4 soils as defined in AASHTO Specification M145 are not suitable for infiltration. The Applicant has made efforts to explore the potential for infiltration, as it is a

preferred method for stormwater disposal. However, the test results are not favorable and do not support the feasibility of stormwater disposal via infiltration. No groundwater was encountered to the exploration depths of 10 feet.

An offsite analysis extending a minimum of one-fourth of a mile downstream from the development site in compliance with the provisions of Section CCC 40.380.040(B)(2) shall be performed to ensure that the additional runoff from this development does not adversely impact the downstream. (See Condition A-8)

The report indicates that the existing storm sewer in NW 122nd Street drains directly to Lake River and was designed to accommodate the flows from this site following the development. The Applicant will be required to submit information with the Technical Information Report that shows the existing conveyance system is sized to receive additional runoff from this development and that no adverse impacts will be caused by runoff from this development. (See Condition A-9)

Conclusion (Stormwater)

Based upon the development site characteristics, the proposed stormwater plan, the requirements of the County's stormwater ordinance, and findings above, the proposed preliminary stormwater plan, subject to conditions 4 and 8, is feasible.

FIRE PROTECTION:

Fire Marshal Review

Fire Protection Finding 1:

This application was reviewed by Tom Scott in the Fire Marshal's Office. Tom can be reached at (360) 397-2375 x4095 or 3323. Information can be faxed to Tom at (360) 759-6063. Where there are difficulties in meeting these conditions or if additional information is required, contact Tom in the Fire Marshal's office immediately.

Building Construction

Fire Protection Finding 2:

Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process (see condition of approval A-10).

Fire Flow

Fire Protection Finding 3:

Fire flow in the amount of 2,250 gallons per minute at 20 pounds per minute (psi) supplied for 60 minutes duration is required for this application. A utility review from the water purveyor indicates that the required fire flow is available at the site. Additions to water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval (see condition of approval A-11).

Fire Marshal Review

Fire Protection Finding 4:

Fire hydrants are required for this application. Provide fire hydrants such that the maximum spacing between hydrants does not exceed 700 feet and such that no lot or parcel is in excess of 500 feet from a fire hydrant as measured along approved fire apparatus access roads (see condition of approval A-12).

Fire Marshal Review

Fire Protection Finding 5

Unless waived by the fire district chief fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. The local fire district chief approves the exact locations of fire hydrants. As a condition of approval, contact the Fire District 6 at (360) 576-1195 to arrange for location approval. The applicant shall provide and maintain a six-foot clear space completely around every fire hydrant (see conditions of approval A-13).

Fire Apparatus Access

Fire Protection Finding 6:

Fire apparatus access is required for this application. The roadways and maneuvering areas as indicated in the application meet the requirements of the Clark County Road Standard. Provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface and capable of supporting the imposed loads of fire apparatus. (See condition of approval C-2).

Fire Apparatus Turnarounds

Fire Protection Finding 7:

Approved fire apparatus turnarounds are required for this project. The indicated provisions for turning around fire apparatus are adequate.

Fire Protection Finding 8:

Parallel parking is prohibited on streets that are less than twenty-four (24) feet wide. Streets that are less than twenty-four (24) feet wide shall be posted "NO PARKING". (See condition of approval C-3)

WATER & SEWER SERVICE:

Finding 1

The Clark Public Utilities provides potable water and Hazel Dell Sewer District provides public sewer services in the area. Letters from both utility districts confirm that the services are available to serve this development.

Finding 2

Submittal of a "Health Department Evaluation Letter" is required as part of the Final Construction Plan Review application. If the Evaluation Letter specifies that an acceptable "Health Department Final Approval Letter" must be submitted, the Evaluation Letter will specify the timing of when the Final Approval Letter must be submitted to the county (e.g., at Final Construction Plan Review, Final Plat Review or prior to occupancy). The Health

Department Evaluation Letter will serve as confirmation that the Health Department conducted an evaluation of the site to determine if existing wells or septic systems are on the site, and whether any structures on the site have been/are hooked up to water and/or sewer. The Health Department Final Approval Letter will confirm that all existing wells and/or septic systems have been abandoned, inspected and approved by the Health Department (if applicable). (See condition of approval E-5).

Finding 3

Advisory only: The existing wells and/or septic systems shall be abandoned. Submittal of an acceptable "Health Department Final Approval Letter" to the county is required at the time specified in the evaluation letter. (See condition of approval E-5).

Finding 4

Advisory only: If underground storage tanks exist on the property, they must be identified and decommissioned consistent with the Uniform Fire Code under permit from the Fire Marshal. Any leaks or contamination must be reported to Washington State Department of Ecology, and proof of removal or abandonment (of the tank) must be submitted to the Health Department prior to final plat recording. (See condition of approval A-14)

IMPACT FEES:

Finding 1

The site is located in Park Impact Fee (PIF) District 9, Evergreen School District Impact Fee (SIF), and Orchards Traffic Impact Fee (TIF) district.

The following note shall be placed on the final plat stating that:

"In accordance with CCC 40.610, park, school, and traffic impact fees for each of the proposed 73 new single-family dwellings in this subdivision are:

\$2,016.00 PIF (made up of \$1,576.00 acquisition fee, and \$440.00 development fee) per new single-family dwelling in Park District 9;

\$1,725.00 SIF per new single-family dwelling in Vancouver School District; and,

\$1,325.92TIF per new single-family dwelling in Hazel Dell Traffic Impact Fee District.

"The impact fees for lots on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated [REDACTED], and expiring on [REDACTED]. Impact fees for permits applied for following said expiration date shall be recalculated using the then-current regulations and fees schedules." (See condition of approval B-2)

SEPA Determination of Non-Significance (DNS)

Clark County, as lead agency for review of this proposal, has determined that this proposal does not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030 (2) (e). This decision was made after review of a completed environmental checklist and other information on file with the County. The 14-day comment period, which ended November 8, 2004 without an appeal.

DECISION

Based upon the proposed plan (identified as Exhibits 5), and the findings and conclusions stated above, the Hearings Examiner APPROVES this request, subject to the understanding that the applicant is required to adhere to all applicable codes and laws, and is subject to the following conditions of approval:

Conditions of Approval

A Conditions that must be met prior to Final Plat approval and recording; or if improvements are approved by the county for bonding or other secure method, such conditions shall be met prior to issuance of Building Permits per CCC, Sections 12.05A.770(10) & (11) and 13.029.370.

Land Use – Zoning

- A-1 The applicant shall establish covenants, conditions and restrictions (CC & R's) to be approved by the county's prosecuting attorney creating a home owner's association for the purposes of maintaining the open spaces, trails, club house and pool and community garden. (See Land Use Finding 1)
- A-2 The applicant shall provide a building envelope indicating the location of the building on each lot. (See Land Use Finding 3)

Concurrency

- A-3 The applicant shall reimburse the County for the cost of concurrency modeling incurred in determining the impact of the proposed development, in an amount not to exceed \$1,000. The reimbursement shall be made prior to final plat. (See Transportation Concurrency Finding # 2)

Transportation

- A-4 The Applicant shall dedicate an additional right-of-way to provide a half-width-right of way of 40 feet along the frontage on NE 36th Avenue. Landscaping shall be installed along the frontage of this road. See Transportation Finding 3
- A-5 The Applicant shall install "NO PARKING" signs along the frontage on NE 122nd Street. The Applicant shall coordinate with the county Public Works staff to determine whether north or south side of the street should be a no parking zone. See Transportation Finding 4
- A-6 The project shall dedicate and construct partial-width road to accommodate a 36-foot full-width pavement for NW 122nd Street at its intersection with NW 36th Avenue. The curb-return radii of 35 feet and ROW chord of 25 feet for intersection of NW 36th Avenue and NW 122nd Street will be required. See Transportation Finding 10
- A -7 The proposed layout shall be reconfigured to allow lots 8, 9, 57, 589, 72 and 73 to meet

minimum driveway spacing standards by providing shared access to the corner lots, or in any other way.

Stormwater and Erosion Control

- A-8 An offsite analysis extending a minimum of one-fourth of a mile downstream from the development site in compliance with the provisions of Section CCC13.29.305 (B) will be required. See Stormwater Finding 3
- A-9 The Applicant will be required to submit information with the Technical Information Report that shows the existing conveyance system is sized to receive additional runoff from this development and that no adverse impacts will result due to runoff from this development. The Applicant will be responsible for any modification requirements that may be triggered by this development. See Stormwater Finding 3

Fire Protection:

- A-10 Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process (see Fire Protection Finding 2).
- A-11 Fire flow in the amount of 1,000 gallons per minute at 20 pounds per square inch (psi) supplied for 60 minutes duration is required for this application. A utility review from the water purveyor indicates that the required fire flow is available at the site. Additions to water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval (see Fire Protection Finding 3).
- A-12 Fire hydrants are required for this application. The applicant shall provide fire hydrants such that the maximum spacing between hydrants does not exceed 700 feet and such that no lot or parcel is in excess of 500 feet from a fire hydrant as measured along approved fire apparatus access roads (see Fire Protection Finding 4).
- A-13 Unless waived by the fire district chief fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. The local fire district chief approves the exact locations of fire hydrants. As a condition of approval, contact the Vancouver Fire Department at (360) 696-8166 to arrange for location approval. The applicant shall provide and maintain a six-foot clear space completely around every fire hydrant (see Fire Protection Finding 5).

Water & Sewer Services - Other Health Concerns

- A-14 *Advisory only:* If underground storage tanks exist on the property, they must be identified and decommissioned in place consistent with the Uniform Fire Code under permit from the Fire Marshal. Any leaks or contamination must be reported to Washington State Department of Ecology, and proof of removal or abandonment (of the tank) must be submitted to the Health Department prior to final plat recording. (See Water & Sewer Services Finding 4)

B. Conditions that must be met prior to issuance of Building Permits

Concurrency

- B-1 Prior to issuance of any building or grading permits for the development site, the applicant shall obtain written approval from Clark County Department of Public Works of the applicant's Traffic Control Plan (TCP). The TCP shall govern all work within or impacting the public transportation system. (See Transportation Concurrency Finding # 6)

Impact Fees

- B-2 The following note shall be placed on the final plat stating that:
"In accordance with CCC 40.610, park, school, and traffic impact fees for each of the 73 new single-family dwellings in this subdivision are:
1. \$2,016.00 PIF (made up of \$1,576.00 acquisition fee, and \$440.00 development fee) per new single-family dwelling in Park District 9;
 2. \$1,725.00 SIF per new single-family dwelling in Vancouver School District; and,
 3. \$1,325.92TIF per new single-family dwelling in Hazel Dell Traffic Impact Fee District.

"The impact fees for lots on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated [REDACTED], and expiring on [REDACTED]. Impact fees for permits applied for following said expiration date shall be recalculated using the then-current regulations and fees schedules." (See Impact Fees Finding 1)

C. Conditions that must be met prior to issuance of Occupancy Permits

Land Use – Zoning:

- C-1 The applicant perimeter landscaping and streetscape as shown on the proposed Landscape Plan for Falcon's Rest Subdivision PUD, Sheet 3 of 5 attached to this Staff Report as Exhibit 5A. (See Land Use Finding 1)

Fire Protection

- C-2 Fire apparatus access is required for this application. The roadways and maneuvering areas as indicated in the application shall meet the requirements of the Clark County Road Standard. The applicant shall provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface capable of supporting the imposed loads of fire apparatus (see Fire Protection Finding 5).
- C-3 Parallel parking is prohibited on streets that are less than twenty-four (24) feet wide. Streets that are less than twenty-four (24) feet wide shall be posted "NO PARKING". (See Fire Protection Finding 8)

D. Notes Required on Final Plat

The following notes shall be placed on the final plat:

D-1 The following lot dimensions and building set backs shall apply

1. Minimum lot area --- 1,800 square feet
2. Minimum lot width --- 25 feet
3. Minimum lot depth --- 50 feet
4. Front yard setback for the house --- 10 feet
5. Front yard set back for the garage --- 18 feet
6. Street side yard --- 10 feet
7. Interior side yard --- zero to 5 feet
8. Rear yard set back --- 5 feet
9. Maximum building height --- 35 feet. (See Land Use Finding 2)

D-2 To safeguard public safety, the street side yard for Lot 8, Lot 9, Lot 57 and Lot 58 should be 10 feet, and the interior side yard setback for all lots should be zero to 8 feet, or as may be approved by the Fire Marshal or a designee consistent with the International Fire and Building Codes as adopted by Clark County. (See Land Use Finding 2)

D-3 Archaeological:

If any cultural resources are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines.

D-4 Mobile Homes:

The placement of mobile homes is prohibited.

D-5 Impact Fees:

In accordance with CCC 40.610, Park, School, and Traffic Impact Fees for each of the 73 new dwellings in this subdivision are: \$2,016.00 (\$1,576.00 - Acquisition; \$440.00 - Development for Park District 9); \$1,725.00 (Vancouver School District); and \$1,325.92 (Orchards TIF district), respectively. The impact fees for lots on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated _____, and expiring on _____. Impact fees for permits applied for following said expiration date shall be recalculated using the then-current regulations and fees schedule.

D-6 Utilities:

An easement is hereby reserved under and upon the exterior six (6) feet at the front boundary lines of all lots for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable, water and sanitary

sewer services. Also, a sidewalk easement, as necessary to comply with ADA slope requirements, shall be reserved upon the exterior six (6) feet along the front boundary lines of all lots adjacent to public streets.

D-7 Sidewalks:

Prior to issuance of occupancy permits, sidewalks shall be constructed along all the respective lot frontages.

D8 Critical Aquifer Recharge Areas:

The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection.

D-9 Erosion Control:

Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction.

D-10 Driveways:

No direct access is allowed onto the following streets: NW 36th Avenue.

D-11 Driveways:

All residential driveway approaches entering public roads are required to comply with CCC 40.350.

D-12 Private Roads:

Clark County has no responsibility to improve or maintain the private roads contained within or private roads providing access to the property described in this plat. Any private access street shall remain a private street unless it is upgraded to public street standards at the expense of the developer or adjoining lot owners to include hard surface paving and is accepted by the County for public ownership and maintenance.

D-13 Driveways:

All residential driveway approaches entering public roads are required to comply with CCC 40.350. (See also Condition A-7)

E. Standard Conditions

This development proposal shall conform to all applicable sections of the Clark County Code. The following conditions shall also apply:

Land Division:

E-1 Within 5 years of preliminary plan approval, a Fully Complete application for Final

Plat review shall be submitted.

- E-2 Prior to recording the final plat, the applicant shall submit a copy of the approved landscape plan(s) for any public right-of-way (if applicable) with a letter signed and stamped by a landscape architect licensed in the state of Washington certifying that the landscape and irrigation (if any) have been installed in accordance with the attached approved plan(s) and verifying that any plant substitutions are comparable to the approved plantings and suitable for the site.

Final Construction Plan Review:

- E-3 Prior to construction, the applicant shall submit and obtain county approval of a final stormwater plan designed in conformance to CCC 40.380.
- E-4 Prior to construction, the applicant shall submit and obtain county approval of a final transportation design in conformance to CCC 40.350.

Water Wells and Septic Systems:

- E-5 Submittal of a "Health Department Evaluation Letter" is required as part of the Final Construction Plan Review application. If the Evaluation Letter specifies that an acceptable "Health Department Well/Septic Abandonment Letter" must be submitted, then the Evaluation Letter will specify when the Final Approval Letter must be submitted to the county (e.g., at Final Construction Plan Review, Final Plat Review or prior to the Issuance of an Occupancy Permit).

Pre-Construction Conference:

- E-6 Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County.

Erosion Control:

- E-7 Prior to construction, the applicant shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC 40.380.
- E-8 For land divisions, a copy of the approved erosion control plan shall be submitted to the Chief Building Official prior to final plat recording.
- E-9 Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.
- E-10 Erosion control facilities shall not be removed without County approval.

Transportation:

- E-11 Prior to construction, the applicant shall submit and obtain County approval of a final transportation design in conformance to CCC 40.350.

Excavation and Grading

- E-12 Excavation/grading shall be performed in compliance with Appendix Chapter J of the 2003 International Building Code (IBC).
- E-13 Site excavation/grading shall be accomplished, and drainage facilities shall be provided, in order to ensure that building foundations and footing elevations can comply with CCC 14.04.252.

Landscaping:

- E-14 Prior to recording the final plat, the Applicant shall submit a copy of the approved landscape plan(s) for any public right-of-way (if applicable) with a letter signed and stamped by a landscape architect licensed in the state of Washington certifying that the landscape and irrigation (if any) have been installed in accordance with the attached approved plan(s) and verifying that any plant substitutions are comparable to the approved plantings and suitable for the site.

Dated this _____ day of December, 2004

**J. Richard Forester
Hearing Examiner**

NOTE: *Only the decision and the condition of approval are binding on the applicant, owner or subsequent developer of the subject property as a result of this order. Other parts of the final order are explanatory, illustrative and/or descriptive. There may be requirements of local, state, or federal law, or requirements which reflect the intent of the applicant, the county staff, or the Hearings Examiner, but they are not binding on the applicant as a result of the final order unless included as a condition.*

An **appeal** of any aspect of the Hearing Examiner's decision, except the SEPA determination, may be appealed to the Board of County Commissioners only by a party of record. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

The appeal shall be filed with the Board of County Commissioners, 1300 Franklin Street, Vancouver, Washington, 98668, within fourteen (14) calendar days from the date the notice of final land use decision is mailed to parties of record.

Any appeal of the final land use decisions shall be in writing and contain the following:

1. The case number designated by the County and the name of the applicant;
2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 40.510.030 (H) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager. All contact with the Development Services Manager regarding the petition, including notice, shall be with this contact person;
3. The specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied, on to prove the error; and,
4. If the petitioner wants to introduce new evidence in support of the appeal, the written appeal also must explain why such evidence should be considered, based on the criteria in subsection 40.510.030(H)(3)(b);
5. A check in the amount of \$279.00 (made payable to the Clark County Board of County Commissioners).